

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29210

8.12.13 IMPLIED CONSENT – BAC DATAMASTER OBSERVATION PERIOD

POLICY #: 8.12.13	DATE: 09/01/93	REVISION DATE: 11/16/01
TITLE: IMPLIED CONSENT - BAC DATAMASTER OBSERVATION PERIOD		PAGE 1 OF 2
RESPONSIBLE AUTHORITY: SPECIAL AGENT IN CHARGE OF THE FORENSIC SERVICES LABORATORY		
RELATED STANDARDS/STATUTES/REFERENCES: <u>S. C. Code of Laws, Section 23-31-410</u> <u>S. C. Code of Laws, Section 50-21-114</u> <u>S. C. Code of Laws, Section 55-1-100</u> <u>S. C. Code of Laws, Section 56-1-286</u> <u>S. C. Code of Laws, Section 56-1-2130</u> <u>S. C. Code of Laws, Section 56-5-2950</u> <u>S. C. Code of Regulations, Chapter 73,</u> Article 1		

GENERAL PURPOSE: To set forth policies for the administration of implied consent breath alcohol tests.

POLICY: The Division will establish procedures for properly conducting implied consent BAC DataMaster breath alcohol tests.

SPECIFIC PROCEDURES: Even though the BAC DataMaster has the capability to detect the presence of mouth alcohol and will abort the test if significant mouth alcohol is detected, an observation period of a minimum of twenty minutes will be used as a precaution. The purpose of the observation period is to allow for deprivation of mouth alcohol. The operator is not required to maintain eye contact with the subject, but the operator will monitor the subject to ensure no external liquids and/or solids are ingested before providing a breath sample. The observation period typically begins after the subject's mouth has been checked for any foreign material. For implied consent tests, it must be a minimum of twenty minutes between the time the subject's mouth is checked (time stamp) and the time listed by "SUBJECT SAMPLE" on the evidence ticket (except in refusals). Therefore, the actual test sequence may begin less than twenty minutes from the beginning observation time (as indicated by the time stamp), as long as at least twenty minutes elapse before the subject provides his/her breath sample. Test operators are instructed to wait at least twenty minutes before beginning the test sequence only to prevent the operator from having the subject provide a sample before twenty minutes has elapsed. The test operator may, at his/her discretion, observe more than one subject at once, as long as the observation periods are performed properly. In this case, the operator must be able to verify that none of the subjects ingested any external liquids or solids during the observation period.

The subject may not smoke during this time. Intentional ingestion of prohibited substances constitutes a refusal situation. If ingestion of prohibited substances (intentional or unintentional) or any other type of compromise of the observation period occurs and the operator proceeds with the test, he/she must recheck the mouth, time stamp an evidence ticket, and begin another minimum twenty minute observation period. The subject's failure to cooperate in this procedure also constitutes a refusal situation.

If a subject regurgitates significant (as determined by the operator) solid and/or liquid matter into the mouth during the observation period, the operator will have the subject rinse his/her mouth out with water, check the mouth, and then time stamp another ticket to begin another observation period (unless a refusal occurs). If significant regurgitation that could affect the test went undetected by the operator, the instrument's mouth alcohol detection system would abort the test. Merely belching during the observation period will not affect the test results and therefore the mouth does not have to be rinsed out or another observation period begun. If the observation period must be restarted for whatever reason, the original evidence ticket should be saved.

BY ORDER OF:


CHIEF OF SLED